



28 FEB 2006

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In re Application of:	:	
VOGT, Michael	:	DECISION ON REQUEST UNDER
U.S. Application No.: 10/537,494	:	37 CFR 1.497(d)
PCT No.: PCT/CH2003/000807	:	
International Filing Date: 08 December 2003	:	
Priority Date: 06 December 2002	:	
Attorney's Docket No.: 09894.0007-00	:	
For: WORLD TIMEPIECE	:	

This decision is issued in response to applicant's 21 December 2005 submission, which included a request under 37 CFR 1.497(d) to correct the inventorship in the present application. Applicant has submitted \$65 for the required processing fee; however, the applicable processing fee is \$130 (there is no small entity discount for this fee). Accordingly, Deposit Account No. 06-0916 will be charged the remainder of the required processing fee.

BACKGROUND

On 08 December 2003, applicant filed international application PCT/CH2003/000807 that claimed a priority date of 06 December 2002 and designated the United States. On 24 June 2004, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 06 June 2005. The published international application identified a corporate applicant for all states other than the U.S., and a single applicant/inventor for the U.S., Michael VOGT.

On 03 June 2005, applicant filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee, an English translation of the international application, and a declaration executed by three persons: the inventor of record, Michael VOGT, and two additional inventors, Thomas PRESCHER and Renato SCARINZI.

On 24 October 2005, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Missing Requirements" (Form PCT/DO/EO/905) indicating that an oath or declaration acceptable under 37 CFR 1.497 was required. The Notification stated that the previously filed declaration was defective based on the inclusion of the two new inventors.

On 21 December 2005, applicants filed the response to the Notification Of Missing Requirements considered herein. The response included a revised declaration (again executed by Michael VOGT, Thomas PRESCHER and Renato SCARINZI), a request to correct the inventorship of record to include Thomas PRESCHER and Renato SCARINZI, and supporting materials.

DISCUSSION

Where, as here, the filed declaration names additional inventors who were not identified on the international application, 37 CFR 1.497(d) requires applicant to submit: (1) a statement from each person being added as an inventor that any error in inventorship in the international application occurred without deceptive intent; (2) the processing fee; and (3) if an assignment has been executed by any of the original named inventors, the written consent of the consignee (in the form required by 37 CFR 3.73(b)).

Applicant here has submitted the required statements by the added inventors, Thomas PRESCHER and Renato SCARINZI. Item (1) is therefore satisfied.

The 21 December 2005 submission include a \$65 payment towards the required \$130 processing fee; Deposit Account No. 06-0916 will be charged the additional \$65 required to complete the required \$130 processing fee (as noted above, there is no small entity discount for this fee). Item (2) is therefore satisfied.

Regarding item three, applicant has submitted a "Submission Under 37 CFR 3.73(B)" executed on behalf of assignee POWERMIKE.COM. The "Submission Under 37 CFR 3.73(B)" states that a copy of the Assignment is enclosed therewith; however, the application file does not contain a copy of the purportedly enclosed Assignment (nor does the "Submission Under 37 CFR 3.73(B)" identify the recorded Assignment by reel and frame number, as required by 3.73(b)(1)(ii) if a copy of the Assignment is not provided). Moreover, the "Submission Under 37 CFR 3.73(B)" does not include a statement that the assignee consents to the requested change of inventorship. Before item (3) can be considered satisfied, applicant must provide the written consent of the assignee to the change of inventorship. Any such consent of the assignee must be accompanied by a proper statement under 37 CFR 3.73(b), that is, a properly executed statement that is either accompanied by a copy of the Assignment or specifically identifies the recorded Assignment by reel and frame number.

Based on the above, the present record does not satisfy all the requirements for correction of the inventorship under 37 CFR 1.497(d).

CONCLUSION

Applicant's request to correct inventorship under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

Michael VOGT remains the sole inventor of record herein. Accordingly, the declaration filed 03 June 2005, and the revised declaration filed with the present materials, both of which

identify Michael VOGT, Thomas PRESCHER and Renato SCARINZI as inventors, are defective for failure to properly identify the inventors of record herein.

If reconsideration on the merits of the petition is desired, a proper response must be filed within **TWO (2) MONTHS** of the mail date of the present decision. Any request for reconsideration should include a cover letter entitled "Renewed Request Under 37 CFR 1.497(d)" and must include the materials required to satisfy item (3) of a grantable request, as discussed above (i.e., the consent of the assignee in the form required by 37 CFR 3.73(b)).

Failure to file a proper response will result in abandonment of the application. Extensions of time are available under 37 CFR 1.136(a)

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

A handwritten signature in black ink, appearing to read "RM Ross", is positioned above the typed name of the signatory.

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